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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,079	08/27/2003	Khanh Tran	S63.2-9072-US02	4657
490	7590	05/05/2004	EXAMINER	
VIDAS, ARRETT & STEINKRAUS, P.A. 6109 BLUE CIRCLE DRIVE SUITE 2000 MINNETONKA, MN 55343-9185			SWEET, THOMAS	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 05/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/649,079	TRAN ET AL.	
	Examiner	Art Unit	
	Thomas J Sweet	3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-39 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 30-39 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/24/2003</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 30-32, 34-35 and 38-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Staehle (US 6143021). Staehle discloses a medical device delivery system (Fig. 7) comprising a manifold (14) having a rack (37) and pinion (38) and inner tube (22) extending distally of the manifold; a retractable sheath (23) and a pull-wire (25) extending proximally from the retractable sheath to the manifold, the pull-wire attached to the pinion (via rack teeth).

With regard to claim 34, the manifold comprises a first part (26) movable received in a second part (14) the pinion disposed in the first part (see fig. 6- 37 and 26) and the rack disposed in the second part (see fig. 7 -14, 40 and 25).

With regard to claims 38 and 39, as manifold (14) moves proximally with respect to the rest of the system pinion (37) moves proximally and as the pinion and manifold move proximally the sheath is retracted.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30-33 and 35- 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Staehle in view of Williams et al. (US 5,308,316). Staehle discloses a medical device delivery system as discussed above. However, Staehle does not disclose a pull-wire windable on a spool portion of a pinion. Williams et al. teaches another medical device delivery system (fig. 1) including an actuator assembly (10) on which a rack (26) and pinion (22) with a spool portion (36) winds (fig. 2) a windable pull-wire (40) as a means for actuating the delivery system. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the actuator assembly as taught by Williams et al. in the delivery system of Staehle since it amounts to mere substitution of one actuator assembly for another in the art of medical delivery devices.

With regard to claims 32, 33 and 37, the retraction of the pull-wire and hence the sheath as modified is accomplished by the rack actuation but the specific direction distal or proximal depend on which way the pull-wire is wound. It would be within the skill level of one of ordinary skill in the art to reversing the actuation direction of the rack, since it merely involves winding the pull-wire the opposite direction around the spool portion.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Trumbull (US 6,228,051) and Hanson et al. (US 6,423,059).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J Sweet whose telephone number is (703) 308-4018. The examiner can normally be reached on 6:30 am - 5:00pm, M-Th.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M McDermott can be reached on (703) 308-2111. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tjs


CORRINE McDERMOTT
SUPERVISORY PATENT EXAMINER
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